

IN THE COURT OF THE MUNSIFF, ADIMALY

Present: Sri. AYYAPPALAL, MUNSIFF.

On Tuesday the 23rd day of September, 2025 / 1st day of Aswina 1947

I.A No. 1/2025 in O.S No.43/2025

Petitioners/Plaintiffs:

1. V.T.Jayesh S/o Thankappan aged 47 years, Vadakkamattathil house, Chattupara kara, Machiplavu.P.O., Mannamkandam Village, Devikulam Taluk.
2. V.T Rajesh S/o Thankappan aged 54 years, Vadakkamattathil house, Chattupara kara. Machiplavu.P.O, Mannamkandam Village, Devikulam Taluk.
3. V.V.Neethu W/o V.T.Jayesh aged 40 years, Vadakkamattathil house, Chattupara kara, Machiplavu.P.O., Mannamkandam Village, Devikulam Taluk.

By Adv.Sri.Sunny.M.Thenaly.

Respondents/Defendants:

1. Kunjumon S/o Uthup aged about 62 years, Oolakkal house, Kurisupara kara, Kurisupara.P.O., Pallivasal Village, Devikulam Taluk.
2. Saly Thomas W/o Thomas aged 67 years, Oolakkal house, Kallar-12 Acre kara, Kallar- Vattiar.P.O, Pallivasal Village, Devikulam Taluk.

By Adv.Sri.P.C.Johney

This petition filed Under Order 39 Rules 1,2,3 of the Civil Procedure Code and coming before me for hearing on 23/09/2025 in the presence of the above counsels and the court on the same day passed the following.

ORDER

1. This is an application under Order XXXIX Rule 1 of CPC.
2. The averments of the petitioner/plaintiff in brief are as follows:- The first and second petitioners are brothers and the third petitioner is the wife of first petitioner. The first and second petitioners have in absolute ownership, exclusive possession and enjoyment of 08.60.92 hectares of Patta land in Survey No. 134 & 111 and in Re-survey No.20/1, Block No.13 in Lakshmi Kara of Pallivasal Village. The said property is hereinafter referred to as the petition A schedule property and more specifically described in the schedule attached hereto. The petition A schedule property was obtained by the first and second petitioners by Sale Deed No.2134/2021, dated 25.11.2021 of S.R.O. Devikulam. The mutation over the petition A schedule property is effected in the name of the first and second petitioners as Thandapper No.479 of Pallivasal Village and they are paying basic land tax to the government. The petition A schedule property is in absolute, continuous, uninterrupted and peaceful possession

of the first and second petitioners. They have developed the petition A schedule property by cultivating Cardamom. The third petitioner has absolute ownership, possession and enjoyment of 05.69.81 hectares of Kuthakapattom land by order No.LWA.1129/59, dated 22.02.2024, issued by the Assistant Cardamom Settlement Officer, Kumaly. The said property is hereinafter referred to as the Petition B Schedule Property and more specifically described in the schedule attached hereto. Both the properties of 08.60.92 hectares of patta land and 05.69.81 hectares of kuthakapattom land (Total extent of property is 14.30.73 hectares) are lying as a single property without having any internal demarcation. There is a residence shed used for the stay of workers of cardamom estate in the petition A schedule property. The respondents have some property in the southern boundary of the petition A schedule property. There is no boundary dispute or any disputed matter pending between the petitioners and the respondents. There is a common boundary of a public road between their properties. In order to grab the property of the petitioners, the second respondent has filed a suit before the Hon'ble court against the first petitioner as OS.40/2025 with a false sale agreement in connection with some other property far away from the petition schedule properties.

The petitioners are residing at Adimaly, away from the petition schedule properties. In the absence of petitioners in the petition schedule properties, the respondents and men under them have tried to trespass in the petition schedule properties for its forceful possession on several occasions. On 02.07.2025 at about 10 AM, the respondents with men and women under them had tried to trespass to the petition B schedule property through the western boundary for its forceful possession. The illegal attempt was rendered futile by the timely intervention of the petitioners and other workers of cardamom estate. At that time, the respondents and men and women under them have openly threatened the petitioners that they will come again and will possess the petition schedule properties by force. It is reliably understood by the petitioners that the respondents are making hasty preparations for collecting men and force to trespass into the petition schedule properties. If the respondents and men and women are allowed to continue with their illegal act, the petitioners will be put to irreparable injury, loss and hardship which cannot be compensated in terms of money.

3. The respondents filed an objection raising the following contentions:- The injunction petition and the plaint are not maintainable either on facts or

on law. All what is stated in the plaint and affidavit in support of the injunction petition are false and hence denied vehemently. The defendant is in possession and enjoyment of 2 acres of non patta land comprising Survey No. 435 Re-survey No. 20 of Block No. 13 in Lakshmi kara of Pallivasal village. The defendant has already filed OS 40/2025 before this Hon'ble Court against the first plaintiff and the suit is pending trial. It is contended that the plaintiffs in this case filed this malicious suit with concocted versions and false history. The plaintiffs in this case have no cause of action against the defendants. The first suit document submitted by the plaintiffs is a forged and false document. The sale deed no. 2134/21 is a recent document created only for this suit. The suit documents 2 to 5 are recently forged documents. It cannot be believed that there is a kuthakapattam order in favour of the third plaintiff. The said plaint schedule property is a recently encroached property by the plaintiffs in the suit. The plaint B schedule property was recently encroached on property said to be by the third plaintiff in the suit. The documents produced in support of plaint B schedule property are all forged documents. The suit no. OS 40/2025 was necessitated as the first plaintiff in the suit has encroached and trespassed into a corner of the plaint schedule property in

the said suit and committed some destruction of the fencing etc. The suit documents numbers 2 to 5 were forged with the collusion of the Village Officer, Pallivasal. No one other than the defendants in this suit has any manner of right, possession or enjoyment on the plaint schedule property. The plaintiffs have no cause of action. The plaintiffs have merely stated in the affidavit that the defendants trespassed into the western boundary of the B schedule property but they have no definite case of how the defendants tried to trespass into the property. As the plaintiffs in this case have filed malicious, vexatious false suits with most unclean hands, they have failed to comply with Order XXXIX Rule 3 and purposefully did not send a copy of the plaint and connected documents.

4. Heard the learned counsel on either side and perused the records.

5. The following points arise for determination:

- 1) Have the plaintiffs shown a prima facie case for trial?
- 2) Whether the balance of convenience is in their favour?
- 3) Whether irreparable injury and loss would be sustained to the plaintiffs, if injunction is not granted?

4) Are the plaintiffs entitled to an order of temporary injunction as prayed for?

5) Order?

6. Points No.1 to 4:- The definite case of the plaintiffs is that the first and second plaintiffs are the owners in possession of Petition-A Schedule Property comprising 08.60.92 hectares of patta land obtained through registered Sale Deed number 2134/2021 dated 25.11.2021, and the third plaintiff owns Petition-B schedule property comprising 05.69.81 hectares of kuthakapattom land by order No.LWA.1129/59 dated 22.02.2024. The plaintiffs claim that respondents with men and women under them attempted to trespass to the petition B schedule property through the western boundary on 02.07.2025 for forceful possession and have openly threatened to return with force to possess the petition schedule properties.

7. Conversely, the defendants argued that the injunction petition and plaint are not maintainable and that all averments are false. The defendants contended that the plaintiffs approached the court with unclean hands by filing a malicious suit with concocted versions. The defendants stated that they are in possession of 2 acres of non patta land in Survey No. 435 Re-survey No. 20 of Block No. 13 and have filed OS 40/2025 against the first

plaintiff which is pending trial. The defendants alleged that Sale Deed No.2134/2021 and other suit documents are forged and false documents created recently for this suit, and that the kuthakapattom order in favour of the third plaintiff cannot be believed. The defendants claimed that both petition schedule properties are recently encroached properties by the plaintiffs and that the documents produced in support are all forged with collusion of Village Officer, Pallivasal. The defendants denied having any manner of trespass and contended that the plaintiffs have no definite case of how the defendants tried to trespass into the property.

8. In ***P. Muthukoya v. M. Muthukoya [1988(1) KLT 664]*** it was held that:

"There must be some material on record in support of the claim of legal right put forward by the person who seeks interlocutory relief of injunction: such material must, either by itself or in the light of material placed before the court by the opposite party, satisfy the court that it could, at that stage and under those circumstances act on it. This is precisely what can be comprehended by the expression prima facie case".

The Hon'ble High Court of Kerala in ***Sankara Pillai v. Inez Rosario reported in AIR 1971 Ker. 27*** held that; "before a temporary injunction is granted, therefore a court must be satisfied that (1) the applicant has a

prima facie case, (2) protection is necessary from the species of injury known as irreparable, before legal right can be established, and (3) the mischief or inconvenience likely to arise from the withholding of injunction is greater than granting it."

9. In the case at hand, the plaintiffs have produced registered Sale Deed number 2134/2021 dated 25.11.2021 showing ownership of first and second plaintiffs over Petition-A schedule property and kuthakapattom order No.LWA.1129/59 dated 22.02.2024 showing third plaintiff's ownership over Petition-B Schedule Property. The plaintiffs are regularly paying land tax and building tax as evidenced by Basic Tax Receipt No.KL06010702704/2025 dated 03.07.2025 and Receipt No.KL06010702645/2025 dated 30.06.2025. The plaintiffs have been in peaceful possession and enjoyment of the properties and have developed the petition A schedule property by cultivating Cardamom. The plaintiffs have also constructed residence sheds for workers with Building Tax Receipt No.R-GO60105-25001006 dated 03.07.2025.

10. Though defendants have raised serious allegations regarding the genuineness of the title documents and claimed them to be forged, mere

allegations without substantive proof cannot defeat the registered documents produced by the plaintiffs at this interim stage. The defendants' allegations of forgery are matters to be decided during trial after proper examination of evidence and cannot be determined summarily at this stage of temporary injunction proceedings. The fundamental right of the plaintiffs to protect their property from trespass and forceful possession cannot be denied based on unsubstantiated allegations. The plaintiffs have specifically stated that on 02.07.2025 at about 10 AM, the respondents with men and women under them attempted to trespass to the petition B schedule property through the western boundary for forceful possession, which was prevented by timely intervention of plaintiffs and workers. The defendants' open threats to return with force and possess the petition schedule properties by force indicate a clear intention to disturb plaintiffs' peaceful possession. The existence of pending suit OS 40/2025 between the parties does not preclude the plaintiffs from seeking protection of their property from trespass and forceful occupation.

11. Hence, the petitioners have established a prima facie case for protection of their property rights. The balance of convenience lies in favour of the plaintiffs who are seeking to protect their titled property from alleged

trespass and forceful occupation. The defendants can pursue their rights through the pending suit OS 40/2025 without resorting to trespass and threats of force. The respondents can exercise their rights within their own boundaries without encroaching upon the plaintiffs' land. If the alleged trespass and threats continue, the plaintiffs would suffer irreparable injury to their property and peaceful possession which cannot be adequately compensated in terms of money. Therefore, I find that the inconvenience caused to the plaintiffs if injunction is not granted would be far greater than any hardship to the defendants.

12. In light of the above decisions, this court is of the view that the applicants have established a prima facie case from the evidence on record and that the balance of convenience is in their favour. The plaintiffs will suffer irreparable injury if injunction is not granted to protect their property from alleged trespass and threats. Hence, I am inclined to allow the petition. Points 1 to 4 are answered accordingly.

13. **Point No.5:-** Considering the nature and circumstances of this case, there is no order as to costs. Parties shall bear their respective costs.

In the result, this application is allowed. The respondents are restrained

from trespassing into the Petition-A schedule property and Petition-B schedule property, taking forcible possession thereof, committing any mischief or waste thereon, causing any damages thereof by any means or otherwise doing any act which may disturb the peaceful possession and enjoyment of the petitioners until the disposal of the suit. No order as to costs.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on the 23rd day of September, 2025.

**AYYAPPALAL,
MUNSIFF.**

APPENDIX

NIL

**AYYAPPALAL,
MUNSIFF.**